

**ENTERED**

October 05, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

KATHY KLEPPEL,

Plaintiff,

VS.

HUNTER'S MANUFACTURING  
COMPANY, INC. D/B/A TENPOINT  
CROSSBOW TECHNOLOGIES,

Defendant.

§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 4:16-CV-3715

**ORDER ADOPTING MEMORANDUM AND ORDER**

Pending before the Court in the above referenced proceeding is Defendant Hunter Manufacturing Company, Inc.'s Motion for Costs for Violation of Court Order and for an Adverse Jury Instruction (Doc. 40); and Judge Stacy's Memorandum and Order that the Court grant in part and deny in party Defendant's Motion (Doc. 49). Plaintiff filed objections (Doc. 50), to which Defendant responded (Doc. 51)

Upon review, the Court agrees with the Magistrate Judge's conclusion that some costs are warranted given the late cancellation of Mr. Kleppel's deposition, however, an adverse jury instruction is not warranted at this time. Accordingly, the Court hereby

**ORDERS** that the Memorandum and Recommendation (Doc. 49) is **ADOPTED**. Defendant's Motion for Costs (Doc. 40) is **GRANTED** and its Motion for Adverse Jury Instruction (Doc. 40) is **DENIED**. It is further

**ORDERED** that within thirty days after entry of this Oder, Plaintiff shall pay Defendant the sum of \$750.00 as costs associated with the cancellation of the deposition of Randy Kleppel

on May 7, 2018. In addition, Defendant may, notwithstanding the expiration of discovery deadlines, take the deposition of Randy Kleppel up to fourteen days prior to trial.

SIGNED at Houston, Texas, this 5<sup>th</sup> day of October, 2018.

A handwritten signature in black ink, appearing to read "Andrew S. Hanen", written over a horizontal line.

ANDREW S. HANEN  
UNITED STATES DISTRICT JUDGE